

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

GENBAND US LLC,

Plaintiff,

v.

METASWITCH NETWORKS LTD;
METASWITCH NETWORKS CORP.,

Defendants.

§
§
§
§
§
§
§
§
§
§

Case No. 2:14-cv-33-JRG

Case No. 2:14-cv-744-JRG

ORDER

Before the Court is Genband US LLC's ("Genband") Motion to Lift the Stay on Non-Patent Counterclaims (Dkt. No. 566). Having considered the same, Genband's motion is hereby GRANTED. It is therefore ORDERED that the stay is lifted with respect to the following non-patent claims and counterclaims:¹

Genband's Counterclaims from Case No. 2:14-cv-744

1. The Texas Uniform Trade Secrets Act (Count XIX);
2. Trade Secret Misappropriation (Texas Common Law) (Count XX);
3. Tortious Interference with Prospective Business Relations (Count XXI); and
4. Unfair Competition Pursuant to Cal. Bus. & Prof. Code § 17200, et seq. (Count XXII)

Metaswitch's Counterclaims from Case No. 2:14-cv-33

1. Breach of Contract to License on FRAND/RAND terms (Count XIX);

¹ These claims and counterclaims were identified by the parties in the Joint Report on Status of Case (Dkt. No. 495). To the extent that there are additional non-patent claims or counterclaims that have been overlooked, or if any of the above-referenced claims and counter-claims have been resolved and are not now in dispute, the parties shall notify the Court by written status report filed within seven days of this Order. The Court carries the issue of claim preclusion at this juncture, until a motion properly raises the issue.

2. Breach of Contract—CableLabs Agreement (Count XXI);
3. Lanham Act (Count XXII)
4. Tortious Interference with a Prospective Business Relationship (Count XXIII);
5. Unfair Competition Pursuant to Cal. Bus. & Prof. Code Sec. 17200, et seq. (Count XXIV); and
6. Texas Unfair Competition Law (Count XXV)

Metaswitch's Claims from Case No. 2:14-cv-744

1. Breach of Contract to License on FRAND/RAND Terms (Count XII);
2. Breach of Contract—CableLabs Agreement (Count XIII);
3. Unfair Competition Pursuant to Cal. Bus. & Prof. Code Sec. 17200, et seq. (Count XVI);
and
4. Texas Unfair Competition Law (Count XVII)

These claims and counterclaims as identified above are hereby SEVERED from the previous cases and are CONSOLIDATED into and made a part of Case No. 2:16-cv-582.

It is further ORDERED that such consolidated Case No. 2:16-cv-582 is referred to United States Magistrate Judge Roy S. Payne for all pretrial proceedings, which shall include:


- a. hearing and determining all matters within the magistrate judge's dispositive jurisdiction;
- b. proceeding in accordance with 28 U.S.C. § 636(b)(1)(B) and (C) concerning matters excepted from magistrate judge's dispositive jurisdiction under 28 U.S.C. § 636(b)(1)(A);
and
- c. after approval of the final pretrial order, issuing a report to the district judge indicating that the case is ready for trial and that all parties have not consented to his jurisdiction.

Upon receipt of the magistrate's report, as noted above, active administration of such case shall be resumed by the undersigned for all further proceedings including trial and the entry of judgment.

It is further ORDERED that, within ten days of the issuance of this Order, the Parties shall meet and confer and then jointly submit a proposed Docket Control Order in accordance with the following dates:

December 5, 2016	Jury Selection – 9:00 a.m. in Marshall, Texas before Judge Rodney Gilstrap
October 28, 2016	Pretrial Conference – 1:30 p.m. in Marshall, Texas before Judge Roy Payne

So ORDERED and SIGNED this 2nd day of June, 2016.



RODNEY GILSTRAP
UNITED STATES DISTRICT JUDGE